

Michigan Department of Civil Service

REGULATION

Appointing Authority Letter Reference: CS-6943	Effective Date: May 1, 2001	Index Reference: Integrity of Appraisal Methods, Removal from Applicant Pools	Regulation Number: 3.06
Issuing Bureau: Human Resource Services	Rule Reference: Rules 2-7 (Drug and Alcohol Testing) 3-1 (Examinations) 3-2 (Applicant Pools and Recall Lists) 8-3 (Technical Complaints)		Replaces: Reg. 3.06 (CS-6940, March 18, 2001)
Subject: SANCTIONS FOR VIOLATING APPRAISAL METHOD INTEGRITY			

TABLE OF CONTENTS

1. Purpose	1
2. Civil Service Rule Reference	1
3. Definitions	4
4. Standards.....	5
5. Procedure.....	6

1. PURPOSE

This regulation establishes the guidelines for sanctions when a person's conduct violates the integrity of the appraisal process. The Department of Civil Service staff, with approval from a group leader, may invoke these sanctions when staff determines that a person engaged in practices prohibited in rules 3-1.5 or 2-7.4(b).

2. CIVIL SERVICE RULE REFERENCE

Rule 2-7 Drug and Alcohol Testing

* * *

2-7.4 Penalties

* * *

- (b) *New hires.* If a person given a conditional offer of employment fails or refuses to submit to the preemployment drug test, interferes with a test procedure, or tampers with a test sample, the conditional offer of employment must be rescinded and the

May 1, 2001	Reg. 3.06: Sanctions for Violating Appraisal Method Integrity	Page 2 of 7
-------------	---	-------------

person must not be appointed to the position in the classified service. The person also is removed from all applicant pools and is disqualified from appointment to the classified service for a period of 3 years.

Rule 3-1 Examinations

* * *

3-1.5 Integrity of Process.

To be considered for appraisal or appointment, an applicant shall comply with the established procedures and processes.

(a) Prohibited practices. *During the application, appraisal, or appointment process, a person shall not do any of the following:*

- (1) Make any false statement or omissions of a material fact.*
- (2) Misrepresent education or experience.*
- (3) Engage in deception or fraud.*
- (4) Cheat.*
- (5) Compromise the integrity of the appraisal process.*
- (6) Violate rule 2-7 [Drug and Alcohol Testing].*

(b) Sanctions. *If the department of civil service finds that an applicant has engaged in any prohibited act, the department may do any of the following:*

- (1) Cancel or limit the applicant's eligibility for state employment.*
- (2) Require the separation of the applicant from state employment.*
- (3) Impose any other or additional sanction that is appropriate.*

Rule 3-2 Applicant Pools and Recall Lists

* * *

3-2.2 Removal from Applicant Pool.

The department of civil service may remove a person from an applicant pool for any one of the following reasons:

- (a)** *Appointment.*
- (b)** *Separation or retirement from state service.*

May 1, 2001	Reg. 3.06: Sanctions for Violating Appraisal Method Integrity	Page 3 of 7
-------------	---	-------------

- (c) *Evidence that the person is unable to perform satisfactorily, with or without reasonable accommodations, the essential duties of the job.*
- (d) *Evidence of conduct that indicates that the person is unfit or unsuitable for appointment.*
- (e) *Conduct that violates rule 3-1.5 [Integrity of Process].*
- (f) *Expiration of an applicant pool or eligibility.*

* * *

Rule 3-6 Revocation of Appointment

3-6.1 Review of Appointments

Every appointment in the classified service is expressly subject to review by the department of civil service. If the department determines that an appointment violated a civil service rule or regulation, the department may order corrective action, including revocation of the appointment.

3-6.2 Methods of Review

The department of civil service may review any appointment as part of the department's audit function or as the result of a technical appointment complaint.

(a) Audit review.

- (1) ***Revocation of appointment.*** *If the department of civil service audits an appointment and determines that the selection, appointment, or certification violated a civil service rule or regulation, the department may order corrective action, including revocation of the appointment. The department shall give written notice of the revocation to the appointing authority and the employee whose appointment is revoked.*
- (2) ***Subsequent technical complaint.*** *An employee whose appointment is revoked, or the employee's appointing authority, may file a technical appointment complaint regarding a staff revocation order within 14 calendar days after the date the revocation order was issued. If a timely technical appointment complaint is filed, the revocation order is automatically stayed pending a decision or further order of the technical review officer.*

(b) Technical appointment complaint by candidate.

- (1) ***Technical appointment complaint authorized.*** *If an unsuccessful candidate files a timely technical appointment complaint under rule 8-3 [Technical Complaints] and the technical review officer determines that the challenged appointment violated a civil service rule or regulation, the officer may order corrective action, including revocation of the challenged appointment.*

May 1, 2001	Reg. 3.06: Sanctions for Violating Appraisal Method Integrity	Page 4 of 7
-------------	---	-------------

- (2) **Notice to incumbent.** *If a technical appointment complaint is filed, the incumbent employee whose appointment is being challenged in the complaint is entitled to notice of the complaint and an opportunity to defend the appointment. If the technical review officer revokes an incumbent employee's appointment, that incumbent employee is bound by the determination of the technical review officer, including revocation of the incumbent employee's appointment.*

3-6.3 Effect of Revocation of Appointment

When the department of civil service or a technical review officer revokes an appointment, the employment status of the employee whose appointment is revoked is determined as follows:

- (a) **Employee with continuing status.** *If the employee had continuing status at the time of the appointment, the employee is to be retained in a position within the principal department or autonomous agency that appointed the employee at a classification and level in which the employee had continuing status at the time of the appointment. If no such position is available within the department or agency at the time of the revocation, the employee may exercise employment preference.*
- (b) **Employee without continuing status.** *If the employee had no continuing status in the classified service at the time of the appointment, the appointing authority shall separate the employee from state employment, unless the employee has otherwise been properly appointed to another position.*

Rule 8-3 Technical Complaints

8-3.1 Complaint Regarding Technical Decision Authorized

An authorized individual, appointing authority, or organization may file a technical complaint with the department of civil service, as provided in this rule and the regulations.

* * *

3. DEFINITIONS

A. Definitions in Rules

- Applicant** means a person who requests to participate in an appraisal process.
- Applicant pool** means a group of applicants whom the department of civil service has determined to be qualified.

May 1, 2001	Reg. 3.06: Sanctions for Violating Appraisal Method Integrity	Page 5 of 7
-------------	---	-------------

- 3. *Appraisal method*** means a technique used to evaluate job-related knowledge, skills, abilities, competencies, and other qualifications to determine eligibility for a position in the classified service.

4. STANDARDS

- A.** If the Department of Civil Service determines that a person has engaged in any act prohibited by rule 3-1.5 or rule 2-7.4(b), the Department may issue written sanctions. Sanctions may include, but are not limited to, the following:
 - 1. Removal from all applicant pools and applicant referral mechanisms.
 - 2. Prohibition from participating in future appraisal processes.
 - 3. Ineligibility for appointment to a classified position.
 - 4. Revocation of appointment and separation from the classified service.
- B.** The Department of Civil Service may sanction any person who takes, sells, distributes, circulates, or uses examination material without the express authorization of the Department of Civil Service.
- C.** Depending upon the nature and severity of the alleged violation, the Office of Compliance may conduct an investigation. The alleged violation may also be referred to the Department of State Police or other authorized police agency.
- D.** Nothing in this procedure precludes the Department of Civil Service from initiating civil action against, or referring for criminal prosecution, anyone who has engaged in any prohibited act.
- E.** If an appointing authority discovers that a person has engaged in any prohibited act, the appointing authority must notify the Department of Civil Service.
- F.** A sanction imposed under this regulation may be appealed through the technical appeal process, in accordance with rule 8-3 [Technical Complaints].
- G.** A sanction that does not state a determinable ending date at the time of issuance continues in effect until the person sanctioned files a written petition to lift the sanction and the Department of Civil Service grants the petition in writing.

May 1, 2001	Reg. 3.06: Sanctions for Violating Appraisal Method Integrity	Page 6 of 7
-------------	---	-------------

- H.** If a sanction does not state a determinable ending date at the time of issuance, it must state a date after which the person is eligible to petition the Department to lift the sanction. The petition-eligible date cannot exceed three years from the date the sanction is imposed. After the petition-eligible date, the person may petition the Department of Civil Service in writing to lift the sanction. If the Department determines that the person does not represent a threat to the integrity of the process or the safety of the classified service, the Department may lift the sanction. If the Department refuses to lift the sanction, the person may appeal through the established technical complaint process.

5. PROCEDURE

<u>Responsibility</u>	<u>Action</u>
Appointing Authority or Complainant	1. Files complaint alleging prohibited practices identified in rule 3-1.5 or rule 2-7.4(b).
Department of Civil Service	2. Investigates suspected violations, with or without, a formal complaint. 3. Reviews documentation provided by appointing authority or complainant and investigates further. 4. Determines whether a prohibited act occurred. 5. If a prohibited act occurred, determines appropriate sanction in accordance with rule 3-1.5, rule 2-7.4(b), rule 3-6, and this regulation. 6. Enters the sanction on the applicant record in HRMN and gives written notice of the sanction to the complainant and the person sanctioned.

May 1, 2001	Reg. 3.06: Sanctions for Violating Appraisal Method Integrity	Page 7 of 7
-------------	---	-------------

CONTACT

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 373-3048 or 1-800-788-1766, or MDCS-BHRS@state.mi.us.

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan *Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.